
By: **Chairman, Finance Committee**
Introduced and read first time: January 31, 2003
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Division of Labor and Industry and Associated Boards and Councils - Sunset**
3 **Extension and Program Evaluation**

4 FOR the purpose of continuing the Division of Labor and Industry, the Amusement
5 Ride Safety Advisory Board, the State Mediation and Conciliation Service, the
6 Maryland Occupational Safety and Health Advisory Board, and the
7 Apprenticeship and Training Council in accordance with the provisions of the
8 Maryland Program Evaluation Act (Sunset Law) by extending to a certain date
9 the termination provisions relating to the statutory and regulatory authority of
10 the specified division, boards, service, and councils; extending certain
11 termination provisions that relate to certain provisions of law regarding
12 amusement ride safety, wage and hour requirements, apprenticeship and
13 training, occupational safety and health, and the employment of minors;
14 repealing certain provisions of law regarding the Advisory Council on Prevailing
15 Wage Rates; repealing certain provisions of law regarding the Advisory
16 Committee on the Wage and Hour Law; repealing certain laws relating to unsafe
17 scaffolding; providing the funding mechanism for the Boiler and Pressure Vessel
18 Safety Act; altering the method of funding for the administration and
19 enforcement of the laws regarding occupational safety and health, amusement
20 ride safety, and elevator safety; requiring the Elevator Safety Review Board to
21 be subject to the Maryland Program Evaluation Act and providing a termination
22 date for the Board; repealing and altering certain provisions of law regarding
23 the regulation of licensed employment agencies by the Commissioner of Labor
24 and Industry; including a nurse registry in the definition of "home health care"
25 as it is used in certain provisions of law regulating home health care; including
26 a nurse registry in the definition of "residential service agency" as it is used in
27 certain provisions of law regulating residential service agencies; authorizing the
28 Commissioner of Labor and Industry to charge a fee to cover the cost of
29 providing mediation services under certain circumstances; altering the
30 definition of "employer" as it is used in the Maryland Occupational Safety and
31 Health Act; authorizing the Commissioner of Labor and Industry to assess a
32 civil penalty against a public body under certain circumstances; creating the
33 Workplace Hazard Abatement Fund; defining the purpose of the Workplace
34 Hazard Abatement Fund; providing for the administration of the Workplace
35 Hazard Abatement Fund; requiring the Legislative Auditor to audit the

1 Workplace Hazard Abatement Fund; requiring the Division of Labor and
2 Industry to submit a certain report to certain committees on or before a certain
3 date; and generally relating to the Division of Labor and Industry and
4 associated boards and councils.

5 BY renumbering

6 Article - Labor and Employment
7 Section 5-101(e) through (h), respectively
8 to be Section 5-101(f) through (i), respectively
9 Annotated Code of Maryland
10 (1999 Replacement Volume and 2002 Supplement)

11 BY renumbering

12 Article - State Government
13 Section 8-403(b)(23) through (54), respectively
14 to be Section 8-403(b)(24) through (55), respectively
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2002 Supplement)

17 BY repealing

18 Article 48 - Inspections
19 Section 111 through 115, inclusive, and the subtitle "Protection of Workingmen
20 and Others Against Unsafe Scaffolding"
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2002 Supplement)

23 BY adding to

24 Article 48 - Inspections
25 Section 170A
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 2002 Supplement)

28 BY repealing and reenacting, without amendments,

29 Article 89 - Miscellaneous Business, Work, and Safety Provisions
30 Section 49C(a), (b), (c), (d), (e), and (f)
31 Annotated Code of Maryland
32 (1998 Replacement Volume and 2002 Supplement)

33 BY adding to

34 Article 89 - Miscellaneous Business, Work, and Safety Provisions
35 Section 49C(x)
36 Annotated Code of Maryland
37 (1998 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Business Regulation
3 Section 2-108, 3-201, 3-601, 9-101, 9-303, 9-310, 9-312, 9-313, 9-314, 9-315,
4 9-316, 9-318, 9-319; 9-501 to be under the amended subtitle "Subtitle 4.
5 Penalties"; and 9-601 to be under the amended subtitle "Subtitle 5. Short
6 Title"
7 Annotated Code of Maryland
8 (1998 Replacement Volume and 2002 Supplement)

9 BY repealing
10 Article - Business Regulation
11 Section 9-203, 9-204, 9-205, 9-206, 9-207, 9-208, 9-209, 9-301, 9-302, 9-304,
12 9-305, 9-306, 9-307, 9-308, 9-309, 9-311, 9-317, 9-320; 9-401, 9-402,
13 9-403, 9-404, 9-405, 9-406, 9-407, 9-408, 9-409 and the subtitle "Subtitle
14 4. Employment Counselors"; 9-502, and 9-503
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 2002 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Business Regulation
19 Section 9-102, 9-201, and 9-202
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2002 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Health - General
24 Section 19-401(c) and 19-4A-01(e)
25 Annotated Code of Maryland
26 (2000 Replacement Volume and 2002 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article - Labor and Employment
29 Section 2-106(d), 2-109, 3-401, 3-706, 4-103, 4-405, 5-101(d), 5-204, 5-206(d),
30 5-607, 5-801, 5-809, 5-812, 5.5-106, and 11-402
31 Annotated Code of Maryland
32 (1999 Replacement Volume and 2002 Supplement)

33 BY repealing and reenacting, without amendments,
34 Article - Labor and Employment
35 Section 5-101(a)
36 Annotated Code of Maryland
37 (1999 Replacement Volume and 2002 Supplement)

38 BY adding to

1 Article - Labor and Employment
2 Section 5-101(e)
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2002 Supplement)

5 BY repealing
6 Article - State Finance and Procurement
7 Section 17-203
8 Annotated Code of Maryland
9 (2001 Replacement Volume and 2002 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article - State Finance and Procurement
12 Section 17-204
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2002 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - State Government
17 Section 8-403(a)
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2002 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - State Government
22 Section 8-403(b)(3) and (4)
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2002 Supplement)

25 BY adding to
26 Article - State Government
27 Section 8-403(b)(23)
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 2002 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article - State Government
32 Section 8-403(b)(37) and (46)
33 Annotated Code of Maryland
34 (1999 Replacement Volume and 2002 Supplement)
35 (As enacted by Section 1 of this Act)

36 BY repealing

1 Article - State Government
2 Section 8-403(b)(55)
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2002 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That Section(s) 5-101(e) through (h), respectively, of Article - Labor
7 and Employment of the Annotated Code of Maryland be renumbered to be Section(s)
8 5-101(f) through (i), respectively.

9 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-403(b)(23)
10 through (54), respectively, of Article - State Government of the Annotated Code of
11 Maryland be renumbered to be Section(s) 8-403(b)(24) through (55), respectively.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article 48 - Inspections**

15 [Protection of Workingmen and Others Against Unsafe Scaffolding]

16 [111.

17 Whenever complaint is made to the commissioner of police or to the inspector, or
18 other persons in charge of the police force of any city or town in this State, that the
19 scaffolding used in the construction, altering, repairing or painting of any building
20 within the limits of such city or town is unsafe and dangerous to the life and limb of
21 any person, it shall be the duty of such police commissioner, inspector of police, or
22 other persons in charge of the police force to immediately detail a competent police
23 officer to inspect such scaffolding forthwith, with instructions to prohibit the further
24 use of such scaffolding, and, if after proper examination he finds the complaint well
25 founded, to require that it be altered or reconstructed in such manner as to render it
26 no longer dangerous to life or limb. It shall be the duty of the officer making the
27 examination to attach a notice to such scaffolding, stating that he has made such
28 examination, and that he has found it safe or unsafe, as the case may be. If he
29 declares it to be unsafe he shall at once, in writing, notify the person or persons
30 responsible for its erection of the fact, and warn them against using it, or permitting
31 or suffering any person or persons to use it, and such notice may be served upon the
32 responsible person or persons, or by conspicuously affixing it to the scaffold declared
33 to be unsafe; after such notice is served or affixed, it shall be the duty of the persons
34 responsible therefor to immediately remove such scaffolding, or to alter or strengthen
35 it in such a manner as to render it safe, in the discretion of the officer who has
36 condemned it or of his superiors.]

37 [112.

38 It shall be the duty of the police commissioner, inspector of police, or other
39 persons in charge of the police force of any city or town of this State, when complaint
40 is made to them or any of them that the slings, hangers, blocks, pulleys, stays, braces,

1 irons or ropes of any swinging or stationary scaffolding used in the painting, cleaning
2 or pointing of any building within the limits of such city or town are unsafe or liable
3 to prove dangerous to the life or limb of any person, to detail a competent police officer
4 to examine, and, if necessary, test the same; immediately after making such
5 examination or test he shall attach thereto a certificate stating that he has made such
6 examination or test and that he has found such slings, hangers, irons or ropes, or any
7 of them, safe or unsafe, as the case may be; if he declares unsafe the whole or any
8 portion of such swinging or stationary scaffolding, he shall at once, in writing, notify
9 the person or persons responsible for the same of the fact, and warn them against
10 using or suffering or permitting any person or persons to use them, and such notice
11 may be served upon the person or persons responsible, or by conspicuously affixing it
12 to the condemned or defective article; after such notice is served or affixed, it shall be
13 the duty of the responsible person or persons to remove or cause to be removed the
14 scaffolding, or that part of it which has been condemned, or to alter and strengthen it
15 in such manner as to render it safe, in the discretion of the officer who has tested or
16 examined it or his superiors.]

17 [113.

18 All swinging and stationary scaffolding shall be so constructed as to bear three
19 times the maximum weight required to be dependent from or placed thereon when in
20 use, and not more than one person shall be allowed on a given scaffold to each tackle
21 and each person shall be provided with a lifeline sufficiently strong to bear twice his
22 weight, secured independently of the other scaffolding.]

23 [114.

24 Any officer detailed to examine or test any scaffolding or portion thereof as
25 required by §§ 111 and 112 shall have free and unobstructed access at all reasonable
26 hours to any building or premises containing them or where they may be in use.]

27 [115.

28 Any person who violates or omits to comply with any of §§ 111 to 114 or who
29 suffers or permits the use of any article or scaffolding declared by a proper officer to
30 be defective, or who destroys or defaces any notice posted in accordance with any of
31 the said provisions, or who hinders or obstructs any officers who may be detailed to
32 enforce said provisions shall be deemed guilty of a misdemeanor, and on conviction in
33 a court of competent jurisdiction be fined not less than twenty-five nor more than one
34 hundred dollars.]

35 170A.

36 THE COST OF ADMINISTERING THIS SUBTITLE IS PROVIDED FOR UNDER § 5-204
37 OF THE LABOR AND EMPLOYMENT ARTICLE.

Article 89 - Miscellaneous Business, Work, and Safety Provisions

2 49C.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Board" means the Elevator Safety Review Board.

5 (3) (i) "Elevator apprentice" means a person who works under the
6 direct supervision of a licensed elevator mechanic.

7 (ii) "Elevator apprentice" includes a person commonly known as an
8 elevator helper while working under the direct supervision of a licensed elevator
9 mechanic.

10 (4) "Elevator contractor" means a person who is engaged in the business
11 of erecting, constructing, wiring, altering, replacing, maintaining, repairing,
12 dismantling, or servicing elevators, dumbwaiters, escalators, and moving walks.

13 (5) "Elevator mechanic" means a person who is engaged in erecting,
14 constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or
15 servicing elevators, dumbwaiters, escalators, and moving walks.

16 (6) "License" includes:

17 (i) An elevator contractor license; and

18 (ii) An elevator mechanic license.

19 (b) (1) There is an Elevator Safety Review Board in the Department of
20 Labor, Licensing, and Regulation.

21 (2) The Board exercises its powers, duties, and functions subject to the
22 authority of the Secretary.

23 (c) (1) The Board shall consist of nine members.

24 (2) Of the nine members of the Board:

25 (i) One shall be the Commissioner of Labor and Industry or
26 designee of the Commissioner, as an ex officio member;

27 (ii) One shall represent a major elevator manufacturing company
28 or its authorized representative;

29 (iii) One shall represent an elevator servicing company;

30 (iv) One shall represent the architectural design profession;

31 (v) One shall represent a municipal corporation in the State;

1 (vi) One shall represent a building owner or manager;

2 (vii) One shall represent labor involved in the installation,
3 maintenance, and repair of elevators; and

4 (viii) Two shall be members of the general public.

5 (3) Except for the ex officio member, the Governor shall appoint the
6 members of the Board with the advice of the Secretary of Labor, Licensing, and
7 Regulation and with the advice and consent of the Senate.

8 (4) (i) Except for the ex officio member, the term of a member is 3
9 years.

10 (ii) At the end of a term, a member continues to serve until a
11 successor is appointed and qualifies.

12 (iii) A member who is appointed after a term has begun serves only
13 for the rest of the term and until a successor is appointed and qualifies.

14 (d) (1) From among the Board members, the Governor shall appoint a
15 chairman.

16 (2) The chairman shall be the deciding vote in the event of a tie vote.

17 (e) (1) The Board shall meet at least once each calendar quarter, at the
18 times and places that the Board determines.

19 (2) Special meetings of the Board may be held as the Board provides in
20 its regulations.

21 (f) A member of the Board:

22 (1) May not receive compensation; but

23 (2) Is entitled to reimbursement for expenses under the Standard State
24 Travel Regulations, as provided in the State budget.

25 (X) SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF
26 THE MARYLAND PROGRAM EVALUATION ACT, THE PROVISIONS OF THIS ARTICLE
27 THAT CREATE OR RELATE TO THE ELEVATOR SAFETY REVIEW BOARD AND ANY
28 REGULATIONS ADOPTED BY THE BOARD SHALL TERMINATE AND BE OF NO EFFECT
29 AFTER JULY 1, 2014.

30 **Article - Business Regulation**

31 2-108.

32 (a) The following units are in the Department:

33 (1) the Division of Labor and Industry.

- 1 (2) the Division of Employment and Training.
- 2 (3) the Commissioner of Financial Regulation.
- 3 (4) the Banking Board.
- 4 (5) the State Board of Architects.
- 5 (6) the State Athletic Commission.
- 6 (7) the State Board of Barbers.
- 7 (8) the Board of Boiler Rules.
- 8 (9) the State Collection Agency Licensing Board.
- 9 (10) the State Board of Cosmetologists.
- 10 (11) the State Board of Master Electricians.
- 11 (12) the Board of Examining Engineers.
- 12 (13) the State Board for Professional Engineers.
- 13 (14) the State Board of Foresters.
- 14 (15) the State Board of Heating, Ventilation, Air Conditioning and
15 Refrigeration Contractors.
- 16 (16) the Maryland Home Improvement Commission.
- 17 (17) the State Board of Certified Interior Designers.
- 18 (18) the State Board of Examiners of Landscape Architects.
- 19 (19) the State Board for Professional Land Surveyors.
- 20 (20) the State Board of Pilots.
- 21 (21) the State Board of Plumbing.
- 22 (22) the State Board of Public Accountancy.
- 23 (23) the State Racing Commission.
- 24 (24) the State Real Estate Commission.
- 25 (25) the State Commission of Real Estate Appraisers and Home
26 Inspectors.
- 27 (26) the Real Estate Hearing Board.

1 (27) the State of Maryland Deposit Insurance Fund Corporation.

2 (28) the Maryland Jockey Injury Compensation Fund, Inc.

3 (29) the State Amusement Ride Safety Advisory Board.

4 (30) the Occupational Safety and Health Advisory Board.

5 (31) the Maryland-Bred Race Fund Advisory Committee.

6 (32) the Maryland Standardbred Race Fund Advisory Committee.

7 [(33) the Advisory Council on Prevailing Wage Rates.

8 (34) the Advisory Committee on the Wage and Hour Law.]

9 (b) The Department also includes each other unit that is assigned to the
10 Department.

11 (c) (1) Each unit created within the Department shall include at least 1
12 consumer member.

13 (2) Each consumer member of the unit:

14 (i) shall be a member of the general public;

15 (ii) may not be a licensee or otherwise be subject to regulation by
16 the unit;

17 (iii) may not be required to meet the qualifications for the
18 professional members of the unit; and

19 (iv) may not, within 1 year before appointment, have had a financial
20 interest in or have received compensation from a person regulated by the unit.

21 (3) While a member of the unit, a consumer member may not:

22 (i) have a financial interest in or receive compensation from a
23 person regulated by the unit; or

24 (ii) grade any examination given by or for the unit.

25 3-201.

26 (a) The Commissioner shall administer and enforce this title.

27 (b) (1) The proposed budget of the Division of Labor and Industry shall
28 include an appropriation from the [General Fund of the State] WORKERS'
29 COMPENSATION COMMISSION to cover the cost of administering and enforcing this
30 title.

1 (2) The Workers' Compensation Commission shall [reimburse the
2 General Fund of the State for this] PAY THE cost OF ADMINISTERING AND
3 ENFORCING THIS TITLE from money that the Commission receives under § 9-316 of
4 the Labor and Employment Article.

5 3-601.

6 Subject to the evaluation and reestablishment provisions of the Maryland
7 Program Evaluation Act, this title and all regulations adopted under this title shall
8 terminate on July 1, [2004] 2014.

9 9-101.

10 (a) In this title the following words have the meanings indicated.

11 (b) "Client" means an individual who seeks employment through an
12 employment agency.

13 (c) "Commissioner" means the Commissioner of Labor and Industry.

14 (d) (1) "Employment agency" means a person who, for a fee:

15 (i) obtains, offers to obtain, or attempts to obtain:

16 1. an employee for a person who seeks an employee; or

17 2. employment for a client;

18 (ii) provides to a client information to enable the client to obtain
19 employment;

20 (iii) obtains, offers to obtain, or attempts to obtain employment or
21 an engagement in connection with an entertainment, exhibition, or performance,
22 including:

23 1. a ballet;

24 2. a circus;

25 3. a concert;

26 4. the legitimate theater;

27 5. modeling;

28 6. a motion picture;

29 7. an opera;

30 8. a phonograph recording;

1 9. the radio;

2 10. a transcription;

3 11. television;

4 12. the variety field; or

5 13. vaudeville; or

6 (iv) 1. obtains, offers to obtain, or attempts to obtain an alien
7 labor certification or immigrant visa for an individual; and

8 2. participates directly or indirectly in the recruitment or
9 supply of an individual who resides outside of the continental United States for
10 employment in the continental United States.

11 (2) "Employment agency" does not include a person who merely:

12 (i) conducts a business that directly employs individuals to provide
13 part-time or temporary services to another person;

14 (ii) as a lawyer, directly obtains an immigrant visa for an
15 individual; or

16 (iii) conducts a business that:

17 1. receives a fee that is paid wholly by an employer;

18 2. does not collect money from an individual seeking
19 employment; and

20 3. does not require an individual seeking employment to
21 make a contract.

22 [(e) "Employment counselor" means an individual who, as an employee of an
23 employment agency, counsels, interviews, or otherwise confers with a client or acts as
24 a placement director or placement manager.

25 (f) "Licensed employment agency" means a person who is licensed by the
26 Commissioner to do business as an employment agency.]

27 9-102.

28 This title does not apply to:

29 (1) a charitable, educational, fraternal, or religious organization that
30 does not charge a fee for its services other than ordinary dues for membership;

31 (2) a labor organization while obtaining or attempting to obtain
32 employment for a member of the organization; or

1 (3) an organization of employers while obtaining or attempting to obtain
2 help for a member of the organization.

3 9-201.

4 The Commissioner may delegate any power or duty of the Commissioner under
5 this title.

6 9-202.

7 The Commissioner shall pay all money collected under this title into the General
8 Fund of the State.

9 [9-203.

10 (a) To perform a duty or exercise a power under this title, the Commissioner
11 may administer oaths, depose witnesses, and certify to official acts.

12 (b) To perform a duty or exercise a power under this title, the Commissioner
13 may issue subpoenas for the attendance of witnesses to testify or to produce
14 evidence.]

15 [9-204.

16 (a) After a public hearing, the Commissioner may adopt regulations to
17 regulate employment agencies.

18 (b) The Commissioner may adopt regulations to allow an employment agency
19 to collect an advance fee for obtaining, attempting to obtain, or offering to obtain an
20 alien labor certification or immigrant visa.

21 (c) (1) At least 30 days before a hearing under this section, the
22 Commissioner shall mail to each licensed employment agency notice of the hearing.

23 (2) At least 10 days before a hearing under this section, the
24 Commissioner shall publish notice of the hearing at least once in a newspaper that
25 the Commissioner chooses.]

26 [9-205.

27 (a) To ensure that each employment agency in the State complies with this
28 title and each regulation that the Commissioner adopts under this title, the
29 Commissioner may:

30 (1) investigate the way in which each employment agency does business
31 as an employment agency; and

32 (2) examine at any time during business hours each book or record of an
33 employment agency.

1 (b) The Commissioner may make any other investigation that may help to
2 enforce this title.]

3 [9-206.

4 If a client submits to the Commissioner a written complaint against an
5 employment agency or employment counselor, the Commissioner may mediate the
6 dispute.]

7 [9-207.

8 (a) (1) The Commissioner may pass an order that requires a person
9 immediately to cease and desist from doing business as an employment agency or
10 acting as an employment counselor if, after investigation, the Commissioner has
11 reason to believe that:

12 (i) the person has been doing so without an appropriate license;
13 and

14 (ii) immediate, irreparable loss and injury to the general public has
15 occurred or will occur.

16 (2) The Commissioner shall serve the order on the alleged violator by
17 either certified mail or personal service.

18 (3) Within 15 days after service of the order on an alleged violator, the
19 alleged violator may submit to the Commissioner a written request for a hearing on
20 the alleged violation.

21 (4) Unless the alleged violator submits a timely request for a hearing,
22 the order is final.

23 (5) If, after a hearing, the Commissioner finds that the alleged violator is
24 not doing business as an employment agency or acting as an employment counselor
25 without an appropriate license, the Commissioner shall revoke the order.

26 (b) (1) The Commissioner shall give a person written notice if, after
27 investigation, the Commissioner has reason to believe that:

28 (i) the person is doing business as an employment agency or acting
29 as an employment counselor without an appropriate license; but

30 (ii) immediate, irreparable loss and injury to the general public has
31 not occurred and will not occur.

32 (2) The notice shall direct that, within 15 days after receipt of the notice,
33 an alleged violator may show cause in writing why the Commissioner should not pass
34 an order that requires the alleged violator to cease and desist from the alleged
35 violation.

1 (3) Unless an alleged violator submits a timely response, the
2 Commissioner may pass an order that requires the alleged violator immediately to
3 cease and desist from the alleged violation.

4 (4) If an alleged violator submits a timely response, the Commissioner
5 may:

6 (i) terminate proceedings against the alleged violator, if the
7 Commissioner finds that there is no basis for passing an order to cease and desist; or

8 (ii) schedule a hearing and, by certified mail, give the alleged
9 violator written notice of the date, place, and time of the hearing.

10 (5) (i) If, after a hearing, the Commissioner finds that the alleged
11 violator is doing business as an employment agency or acting as an employment
12 counselor without an appropriate license, the Commissioner shall pass an order that
13 requires the person to cease and desist from the violation.

14 (ii) If, after a hearing, the Commissioner finds that the alleged
15 violator is not doing business as an employment agency or acting as an employment
16 counselor without an appropriate license, the Commissioner shall terminate
17 proceedings against the person.

18 (c) If a person fails to comply with a lawful order of the Commissioner under
19 this section, the Commissioner may:

20 (1) bring an action in a court of competent jurisdiction for an order to
21 compel compliance; or

22 (2) take any other action that this title allows.]

23 [9-208.

24 After a hearing, the Commissioner may order an employment agency to:

25 (1) reimburse a client for all ordinary and necessary travel expenses that
26 the client incurred as a result of a referral by the employment agency in violation of
27 this title;

28 (2) refund any money that the employment agency took from the client
29 in violation of this title; or

30 (3) do both.]

31 [9-209.

32 (a) A party to a proceeding before the Commissioner who is aggrieved by a
33 final decision of the Commissioner in a contested case, as defined in § 10-202 of the
34 State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of
35 the State Government Article.

1 (b) An applicant for a license to do business as an employment agency or a
2 license to act as an employment counselor whose application was denied by the
3 Commissioner may file an order for appeal within 60 days after a final decision of the
4 Commissioner.]

5 [9-301.

6 In this subtitle, "license" means a license issued by the Commissioner under this
7 subtitle to do business as an employment agency.]

8 [9-302.

9 (a) Except as otherwise provided in this title, a person must have a license
10 whenever the person does business as an employment agency in the State.

11 (b) A separate license is required for each location where a person does
12 business as an employment agency.]

13 [9-303.] 9-301.

14 [(a) An applicant for a license shall:

15 (1) submit to the Commissioner:

16 (i) an application on the form that the Commissioner provides;

17 (ii) at least 3 letters of character reference from individuals who
18 are of reputed business or professional integrity and reside in the State;

19 (iii) a schedule of fees that the applicant expects to charge; and

20 (iv) a copy of each contract or form that the applicant will use; and

21 (2) pay to the Commissioner an application fee of:

22 (i) \$200 for a license for the first location where the applicant will
23 do business as an employment agency; and

24 (ii) \$100 for each additional location where the applicant will do
25 business as an employment agency.

26 (b) For each license, a person shall submit a separate application and separate
27 bond and pay a separate fee.

28 (c) (1) In addition to any other information required on an application form,
29 the form shall require:

30 (i) for a corporate applicant, the name and home address of each
31 officer and each director; and

1 (ii) for a partnership applicant, the name and home address of each
2 partner.

3 (2) The application form shall be signed, under oath:

4 (i) for an individual, by the individual;

5 (ii) for a corporation, by its president, treasurer, and secretary; or

6 (iii) for a partnership, by each of its partners.

7 (d) (1) The applicant for a license shall submit to the Commissioner a penal
8 bond.]

9 (A) AN EMPLOYMENT AGENCY SHALL SUBMIT TO THE COMMISSIONER A
10 PENAL BOND.

11 [(2)] (B) The bond shall:

12 [(i)] (1) run to the State;

13 [(ii)] (2) be in the amount of \$7,000;

14 [(iii)] (3) be signed by [the applicant] AN INDIVIDUAL AUTHORIZED
15 TO DO SO BY THE EMPLOYMENT AGENCY as principal and by a surety company
16 authorized to do business in the State as surety; and

17 [(iv)] (4) be conditioned that the [applicant] EMPLOYMENT
18 AGENCY will comply with this title and will pay to any person all damages caused by
19 deceit, fraud, misrepresentation, or misstatement of the [applicant] EMPLOYMENT
20 AGENCY or an agent or employee of the [applicant] EMPLOYMENT AGENCY.

21 [9-304.

22 When an application for a license is submitted, the Commissioner shall
23 investigate:

24 (1) the character and financial standing of:

25 (i) an individual applicant;

26 (ii) each partner of a partnership applicant;

27 (iii) each officer or director of a corporate applicant; and

28 (iv) the individual who will be general manager of the office; and

29 (2) the location of the office.]

1 [9-305.

2 (a) Within 60 days after the Commissioner receives an application for a
3 license, the Commissioner shall:

4 (1) approve or deny the application; and

5 (2) give an applicant immediate notice of a denial.

6 (b) Subject to the hearing provisions of § 9-311 of this subtitle, the
7 Commissioner may deny a license to an applicant if:

8 (1) the applicant fraudulently or deceptively obtains or attempts to
9 obtain a license for the applicant or for another person;

10 (2) the applicant fraudulently or deceptively uses a license;

11 (3) the applicant, an officer or director of a corporate applicant, a partner
12 of a partnership applicant, or the general manager of an office of the applicant is not
13 of:

14 (i) good moral character;

15 (ii) business integrity; or

16 (iii) financial responsibility; or

17 (4) there is good and sufficient reason within the meaning and purpose
18 of this title for denying the application.]

19 [9-306.

20 The Commissioner shall issue a license to each applicant who meets the
21 requirements of this subtitle.]

22 [9-307.

23 A license authorizes the licensee to do business as an employment agency only at
24 1 place of business.]

25 [9-308.

26 (a) Unless a license is renewed for a 1-year term as provided in this section,
27 the license expires on the first May 1 after its effective date.

28 (b) At least 1 month before a license expires, the Commissioner shall mail to
29 the licensee at the last known address of the licensee:

30 (1) a renewal application form; and

31 (2) a notice that states:

- 1 (i) the date on which the current license expires;
- 2 (ii) the date by which the Commissioner must receive the renewal
3 application for the renewal to be issued and mailed before the license expires; and
- 4 (iii) the amount of the renewal fee.

5 (c) Before a license expires, the licensee periodically may renew it for an
6 additional 1-year term, if the licensee:

- 7 (1) otherwise is entitled to be licensed;
- 8 (2) pays to the Commissioner a renewal fee of:
- 9 (i) \$200 for the first location where the licensee does business as
10 an employment agency; and
- 11 (ii) \$100 for each additional location where the licensee does
12 business as an employment agency; and
- 13 (3) submits to the Commissioner:
- 14 (i) a renewal application on the form that the Commissioner
15 requires; and
- 16 (ii) a copy of each contract or other form that the licensee will use
17 and has not already submitted to the Commissioner.

18 (d) The Commissioner shall renew the license of each licensee who meets the
19 requirements of this section.]

20 [9-309.

21 Each licensee shall display the license conspicuously in the place of business of
22 the licensee.]

23 [9-310.] 9-302.

24 [(a) Subject to the hearing provisions of § 9-311 of this subtitle, the
25 Commissioner may reprimand a licensee or suspend or revoke a license if] AN
26 EMPLOYMENT AGENCY MAY NOT:

- 27 [(1) the licensee fraudulently or deceptively obtains or attempts to obtain
28 a license for the licensee or for another person;
- 29 (2) the licensee fraudulently or deceptively uses a license;
- 30 (3)] (1) [the licensee knowingly refers] KNOWINGLY REFER a client to a
31 job if any condition of the job violates any law;

- 1 [(4)] (2) [the licensee refers] REFER a client to an establishment where
2 a labor dispute exists;
- 3 [(5)] (3) as a condition of providing service to a client, [the licensee
4 requires] REQUIRE the client before acceptance of a job to execute:
- 5 (i) a promissory note; or
- 6 (ii) an instrument with warrant of attorney that authorizes
7 confession of judgment;
- 8 [(6)] (4) [the licensee advertises] ADVERTISE a job for which there is no
9 order by an employer on file;
- 10 [(7)] (5) [the licensee sends] SEND a client to an employer for a job with
11 no order on file for the job unless:
- 12 (i) the employer previously requested regular interviews with
13 qualified clients, the client is qualified, and the [licensee] EMPLOYMENT AGENCY
14 confirms the request before sending the client to the employer; or
- 15 (ii) the [licensee] EMPLOYMENT AGENCY tells the client that the
16 [licensee] EMPLOYMENT AGENCY has no order for the job;
- 17 [(8)] (6) [the licensee splits] SPLIT a fee with an employer or
18 representative of an employer, except that the [licensee] EMPLOYMENT AGENCY may
19 accept from an employer all or part of a service fee for a client if the [licensee]
20 EMPLOYMENT AGENCY tells the client of the payment;
- 21 [(9)] (7) [the licensee charges] CHARGE a client a registration fee or
22 [collects] COLLECT in advance from a client a payment for service to be performed for
23 the client to obtain employment[, except as otherwise provided by regulation];
- 24 [(10)] (8) [the licensee publishes] PUBLISH or [causes] CAUSE to be
25 published any false, fraudulent, or misleading information or promise;
- 26 [(11)] (9) [the licensee solicits] SOLICIT for other employment an
27 individual who is employed by an employer with whom the [licensee] EMPLOYMENT
28 AGENCY placed the individual, unless the individual reactivates the application;
- 29 [(12)] (10) [the licensee engages] ENGAGE in fraud or dishonest dealing;
30 or
- 31 [(13)] (11) [the licensee violates] VIOLATE this title.
- 32 [(b) Instead of revoking or suspending a license, the Commissioner may impose
33 a penalty of not less than \$25 and not more than \$500.]

1 [9-311.

2 (a) (1) Except as otherwise provided in § 10-226 of the State Government
3 Article, before the Commissioner takes any final action under § 9-305 or § 9-310 of
4 this subtitle, the Commissioner shall give the person against whom the action is
5 contemplated an opportunity for a hearing before the Commissioner.

6 (2) A hearing on denial of a license shall be held within 10 days after an
7 applicant submits a formal request for the hearing.

8 (b) The Commissioner shall give notice and hold the hearing in accordance
9 with Title 10, Subtitle 2 of the State Government Article.

10 (c) The Commissioner may administer oaths in connection with a proceeding
11 under this section.

12 (d) If, after due notice, the person against whom the action is contemplated
13 does not appear, nevertheless the Commissioner may hear and determine the
14 matter.]

15 [9-312.] 9-303.

16 Each employment agency shall keep[, on a form that the Commissioner
17 approves,] a detailed record of:

18 (1) each job order from an employer; and

19 (2) each referral that the employment agency makes on a job order.

20 [9-313.] 9-304.

21 (a) Each employment agency shall keep a file of all job advertisements that
22 identifies each advertisement by:

23 (1) its date; and

24 (2) the publication where the advertisement appears.

25 (b) Each employment agency:

26 (1) shall indicate on each advertisement and on all other promotional
27 material the name [under which] OF the employment agency [is licensed]; and

28 (2) except in an advertisement that appears in a classified employment
29 agency column of a newspaper, shall use the word "agency" in each advertisement.

30 [9-314.] 9-305.

31 (a) Each [licensed] employment agency shall[:

1 (1) include prominently, on each contract, invoice, or receipt that the
2 licensed employment agency uses, the words "Licensed by the Commissioner of Labor
3 and Industry, State of Maryland"; and

4 (2)] indicate, on each [other] form that the [licensed] employment
5 agency uses, that it is an employment agency.

6 (b) In a contract between an employment agency and a client, the term
7 "acceptance of position by applicant" means:

8 (1) commencement of work by a client; or

9 (2) an agreement between a client and employer for the client to begin
10 work on a fixed date at an agreed remuneration.

11 (c) In each contract between an employment agency and a client, the
12 employment agency shall state[, in the way the Commissioner requires,] the fee that
13 the employment agency charges the client for placement by the employment agency.

14 [9-315.] 9-306.

15 (a) If, within 90 days after a client starts a job, the client is discharged
16 through no fault of the client or leaves the job voluntarily with just cause, an
17 employment agency may charge the client a temporary placement fee of up to the
18 lesser of:

19 (1) 20% of the total compensation the client received; or

20 (2) 75% of the permanent placement fee for the same job.

21 (b) If, within 90 days after a client starts a job, the client is discharged for
22 cause or leaves the job voluntarily without just cause, an employment agency may
23 charge the client a temporary placement fee of up to 75% of the permanent placement
24 fee.

25 [9-316.] 9-307.

26 If, for a pay period, the pay of an employee placed by an employment agency is
27 not more than the minimum wage under § 3-413 of the Labor and Employment
28 Article, the employment agency may not collect or attempt to collect more than 20% of
29 its placement fee from the employee's pay for the pay period.

30 [9-317.]

31 At least 30 days before a change is to be effective, an employment agency shall
32 submit to the Commissioner:

33 (1) an amended or supplemental schedule of charges; or

34 (2) a change in any form used by the employment agency.]

1 [9-318.] 9-308.

2 Within 24 hours after a client demands reimbursement for ordinary and
3 necessary travel expenses incurred as a result of a referral, an employment agency
4 shall reimburse the client if the client did not obtain employment and:

5 (1) the employment agency sent the client to an employer for a job for
6 which the employment agency had no order and failed to tell the client that there was
7 no order;

8 (2) the client was qualified and the employment agency sent the client to
9 an employer that previously asked for regular interviews with qualified clients, but
10 the employment agency failed to confirm the order with the employer; or

11 (3) the client was unqualified and the employment agency sent the client
12 to an employer that previously asked for regular interviews with qualified clients.
13 [9-319.] 9-309.

14 (a) When an employment agency and a client execute a contract or other
15 document, the employment agency shall give the client a copy of the document.

16 (b) For each fee that an employment agency receives from a client, the
17 employment agency shall give the client a receipt that[:

18 (1) is on a form that the Commissioner approves; and

19 (2)] states:

20 [(i)] (1) the name of the client;

21 [(ii)] (2) the date of payment;

22 [(iii)] (3) the amount of the fee paid; and

23 [(iv)] (4) the balance of the fee due.

24 [9-320.

25 An employment agency shall notify the Commissioner within 5 days after
26 termination of the employment of an employment counselor.]

27 [Subtitle 4. Employment Counselors.]

28 [9-401.

29 (a) In this subtitle, "license" means a license issued by the Commissioner
30 under this subtitle.

31 (b) In this subtitle, "license" includes:

32 (1) a license to act as an employment counselor; and

1 (2) a temporary license.]

2 [9-402.

3 (a) Except as otherwise provided in this title, an individual must have a
4 license whenever the individual acts as an employment counselor in the State.

5 (b) This section does not apply to an employee who is engaged primarily in a
6 clerical occupation.]

7 [9-403.

8 An applicant for a license shall:

9 (1) submit to the Commissioner an application on the form that the
10 Commissioner provides; and

11 (2) pay to the Commissioner an application fee of \$5.]

12 [9-404.

13 On receipt of an application for a license, the Commissioner:

14 (1) shall review the employment experience of the applicant;

15 (2) may investigate the integrity and moral character of the applicant;

16 and

17 (3) unless the applicant previously had a license suspended or revoked
18 by the Commissioner, shall issue to the applicant a temporary license.]

19 [9-405.

20 Within 30 days after the Commissioner receives an application for a license, the
21 Commissioner shall:

22 (1) approve or deny the application; and

23 (2) give the applicant immediate notice of a denial.]

24 [9-406.

25 (a) The Commissioner shall issue a license to each applicant who meets the
26 requirements of this subtitle.

27 (b) The Commissioner shall include on each license the name of the
28 employment agency that will employ the licensee.]

1 [9-407.

2 (a) A license, other than a temporary license, remains in effect until the
3 licensee ceases to be employed with the employment agency designated on the license.

4 (b) A temporary license expires on the earlier of:

5 (1) 30 days after its issuance; or

6 (2) the termination of employment with the employment agency
7 designated on the license.]

8 [9-408.

9 (a) Subject to the hearing provisions of § 9-409 of this subtitle, the
10 Commissioner may deny a license to an applicant, reprimand a licensee, or suspend or
11 revoke a license:

12 (1) for any applicable ground for which a licensed employment agency
13 may be disciplined under § 9-310 of this title;

14 (2) if the applicant or licensee fraudulently or deceptively obtains or
15 attempts to obtain a license for the applicant or licensee or for another person; or

16 (3) if the applicant or licensee fraudulently or deceptively uses a license.

17 (b) In addition to the grounds in subsection (a) of this section, the
18 Commissioner may deny a license to an applicant if the applicant lacks good moral
19 character or integrity.

20 (c) In addition to the grounds in subsection (a) of this section, the
21 Commissioner may reprimand a licensee or suspend or revoke a license if the licensee
22 violates this title.

23 (d) Instead of revoking or suspending a license, the Commissioner may impose
24 a penalty of not less than \$25 and not more than \$500.]

25 [9-409.

26 (a) (1) Except as otherwise provided in § 10-226 of the State Government
27 Article, before the Commissioner takes any final action under § 9-408 of this subtitle,
28 the Commissioner shall give the person against whom the action is contemplated an
29 opportunity for a hearing before the Commissioner.

30 (2) A hearing on denial of a license shall be held within 10 days after an
31 applicant submits a formal request for the hearing.

32 (b) The Commissioner shall give notice and hold the hearing in accordance
33 with Title 10, Subtitle 2 of the State Government Article.

1 (c) The Commissioner may administer oaths in connection with a proceeding
2 under this section.

3 (d) If, after due notice, the person against whom the action is contemplated
4 does not appear, nevertheless the Commissioner may hear and determine the
5 matter.]

6 Subtitle [5.] 4. [Prohibited Acts;] Penalties.

7 [9-501.] 9-401.

8 [(a) Except as otherwise provided in this title, a person may not do business as
9 an employment agency in the State unless the person has a license issued under
10 Subtitle 3 of this title.

11 (b) A person who violates this [section] TITLE is guilty of a misdemeanor and,
12 on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding
13 1 year or both.

14 [9-502.

15 (a) Except as otherwise provided in this title, a person may not act as an
16 employment counselor in the State unless the person has a license issued under
17 Subtitle 4 of this title.

18 (b) A person who violates this section is guilty of a misdemeanor and, on
19 conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1
20 year or both.]

21 [9-503.

22 (a) An employment agency may not demand or receive compensation that
23 exceeds the compensation specified in the schedule of charges that the employment
24 agency submits to the Commissioner.

25 (b) An employment agency that knowingly violates subsection (a) of this
26 section:

27 (1) forfeits any right to compensation for the service that the
28 employment agency performed; and

29 (2) shall return any compensation that the employment agency received
30 for the service.]

31 Subtitle [6.] 5. Short Title.

32 [9-601.] 9-501.

33 This title is the Maryland Employment Agency Act.

Article - Health - General

19-401.

(c) (1) "Home health care" means any of the following services that are provided under the general direction of a licensed health professional practicing within the scope of their practice act:

- (i) Audiology and speech pathology;
- (ii) Dietary and nutritional services;
- (iii) Drug services;
- (iv) Home health aid;
- (v) Laboratory;
- (vi) Medical social services;
- (vii) Nursing;
- (viii) Occupational therapy;
- (ix) Physical therapy;
- (x) Provision of medically necessary sickroom equipment and supplies; OR

(XI) A NURSE REGISTRY THAT IS AN EMPLOYMENT AGENCY UNDER THE PROVISIONS OF THE MARYLAND EMPLOYMENT AGENCY ACT.

(2) However, the provisions of this subsection do not apply to[:

(i) A nurse registry that is licensed under the provisions of the Maryland Employment Agency Act; or

(ii) A] A home-based hospice care program that is licensed as a home-based hospice care program under the provisions of Subtitle 9 of this title.

(3) A home health agency shall also be licensed as a hospice care program if the home health agency operates a hospice care program that is distinct from its other services.

19-4A-01.

(e) (1) "Residential service agency" means any person that is engaged in a nongovernmental business of employing or contracting with individuals to provide home health care for compensation to an unrelated sick or disabled individual in the residence of that individual.

1 (2) "Residential service agency" includes:

2 (I) any agency that employs or contracts with individuals directly
3 for hire as home health care providers; OR

4 (II) A NURSE REGISTRY THAT IS AN EMPLOYMENT AGENCY UNDER
5 THE PROVISIONS OF THE MARYLAND EMPLOYMENT AGENCY ACT THAT:

6 1. SCREENS OR REFERS INDIVIDUALS FOR A CLIENT'S
7 SELECTION OR REJECTION, AS ITS SOLE BUSINESS OPERATION; AND

8 2. DOES NOT ITSELF PROVIDE ANY HOME HEALTH CARE
9 SERVICE.

10 (3) "Residential service agency" does not include:

11 (i) A home health agency that is licensed under the provisions of
12 Subtitle 4 of this title;

13 (ii) A person required to be licensed as a home health agency under
14 the provisions of Subtitle 4 of this title;

15 (iii) A home-based hospice care program that is licensed under the
16 provisions of Subtitle 9 of this title;

17 (iv) A hospital that is licensed under the provisions of Subtitle 3 of
18 this title;

19 (v) A related institution that is licensed under the provisions of
20 Subtitle 3 of this title;

21 (vi) [A nurse registry that is licensed under the provisions of the
22 Maryland Employment Agency Act that:

23 1. Screens or refers individuals for a client's selection or
24 rejection, as its sole business operation; and

25 2. Does not itself provide any home health care service;

26 (vii)] Personal care providers under the Medical Assistance Personal
27 Care Program;

28 [(viii)] (VII) Any person practicing a health occupation that the
29 person is authorized to practice under the Health Occupations Article;

30 [(ix)] (VIII) A group of persons licensed under the same title of the
31 Health Occupations Article practicing as a business; or

32 [(x)] (IX) Residential rehabilitation services providers approved
33 under regulations adopted by the State Mental Health Authority.

Article - Labor and Employment

1

2 2-106.

3 (d) (1) After a public hearing [and with the approval of the Advisory
4 Committee on Wage and Hour Law], the Commissioner may adopt regulations that
5 are necessary to carry out Title 3, Subtitle 4 of this article.

6 (2) Unless the Commissioner provides otherwise, a regulation that the
7 Commissioner adopts under this subsection takes effect on publication.

8 2-109.

9 Subject to the evaluation and reestablishment provisions of the Maryland
10 Program Evaluation Act, this title shall terminate and be of no effect after July 1,
11 [2004] 2014.

12 3-401.

13 (a) In this subtitle the following words have the meanings indicated.

14 (b) ["Committee" means the Advisory Committee on Wage and Hour Law.

15 (c) "Employer" includes a person who acts directly or indirectly in the interest
16 of another employer with an employee.

17 [(d)] (C) "Federal Act" means the federal Fair Labor Standards Act of 1938.

18 [(e)] (D) "Wage" means all compensation that is due to an employee for
19 employment.

20 3-706.

21 Subject to the evaluation and reestablishment provisions of the Maryland
22 Program Evaluation Act, Subtitles 2 and 4 of this title shall terminate and be of no
23 effect after July 1, [2004] 2014.

24 4-103.

25 (a) Under the supervision of the Commissioner, the Mediation Service shall
26 carry out this subtitle.

27 (b) The Commissioner may assign staff to help the Chief Mediator to carry out
28 this subtitle.

29 (C) THE COMMISSIONER MAY CHARGE A FEE TO COVER THE COST OF
30 PROVIDING SERVICES REQUESTED UNDER THIS SUBTITLE.

1 4-405.

2 Subject to the evaluation and reestablishment provisions of the Maryland
3 Program Evaluation Act, Subtitles 1 and 2 of this title and § 4-403 of this subtitle
4 shall terminate and be of no effect after July 1, [2004] 2014.

5 5-101.

6 (a) In this title the following words have the meanings indicated.

7 (d) (1) "Employer" means:

8 (i) except as provided in § 5-401 of this title, a person who is
9 engaged in commerce, industry, trade, or other business in the State and employs at
10 least 1 employee in that business; or

11 (ii) EXCEPT AS PROVIDED IN SUBTITLE 8, PART III OF THIS TITLE, a
12 public body.

13 (2) "Employer" includes:

14 (i) a person who operates or owns a taxicab business in Baltimore
15 City and leases or rents a taxicab to a licensed taxicab driver, to provide services to
16 the public;

17 (ii) a governmental unit or person who engages in a business that
18 directly employs individuals to provide part-time or temporary help to another
19 governmental unit or person; and

20 (iii) a governmental unit or person who contracts directly with
21 another governmental unit or person who engages in a business that directly employs
22 individuals to provide part-time or temporary help to another governmental unit or
23 person.

24 (E) "FUND" MEANS THE WORKPLACE HAZARD ABATEMENT FUND.

25 5-204.

26 (a) (1) The proposed budget of the Division of Labor and Industry shall
27 include an appropriation from the [General Fund of the State] WORKERS'
28 COMPENSATION COMMISSION to cover the cost of administering this title.

29 (2) The Workers' Compensation Commission shall [reimburse the
30 General Fund of the State for] PAY the cost of administering this title from money
31 that the Commission receives under § 9-316 of this article.

32 (b) The Commissioner shall have the power and authority to receive and
33 accept any grant of money from the federal government or any of its agents or units
34 that Congress appropriates under the Occupational Safety and Health Act of 1970.

1 5-206.

2 (d) [The] EXCEPT AS PROVIDED IN SUBTITLE 8, PART III OF THIS TITLE, THE
3 penalties under Subtitle 8 of this title do not apply to a public body.

4 5-607.

5 Subject to the evaluation and reestablishment provisions of the Maryland
6 Program Evaluation Act, this title shall terminate and be of no effect after July 1,
7 [2004] 2014.

8 5-801.

9 [The] EXCEPT AS PROVIDED IN PART III OF THIS SUBTITLE, THE penalties in
10 this subtitle do not apply to a public body.

11 5-809.

12 (A) IN THIS SECTION, EMPLOYER DOES NOT INCLUDE A PUBLIC BODY.

13 [(a)] (B) (1) For the purpose of this subsection, a violation is considered to be
14 a serious violation if there is a substantial probability that death or serious physical
15 harm could result from a condition that exists or a practice, means, method,
16 operation, or process that has been adopted or is in use, unless the employer did not
17 and with the exercise of reasonable diligence could not know of the violation.

18 (2) The Commissioner:

19 (I) shall assess a civil penalty against an employer who receives a
20 citation for a serious violation of this title, an order passed under this title, or a
21 regulation adopted to carry out this title; AND

22 (II) MAY ASSESS A CIVIL PENALTY AGAINST A PUBLIC BODY THAT
23 RECEIVES A CITATION FOR A SERIOUS VIOLATION OF THIS TITLE, AN ORDER PASSED
24 UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE.

25 [(b)] (C) The Commissioner:

26 (1) shall assess a civil penalty against an employer who violates a
27 requirement for posting imposed under this title; AND

28 (2) MAY ASSESS A CIVIL PENALTY AGAINST A PUBLIC BODY THAT
29 VIOLATES A REQUIREMENT FOR POSTING IMPOSED UNDER THIS TITLE.

30 [(c)] (D) The Commissioner may assess a civil penalty against an employer OR
31 PUBLIC BODY [who] THAT:

32 (1) willfully or repeatedly violates this title, an order passed under this
33 title, or a regulation adopted to carry out this title; or

1 (2) receives a citation for a violation of a provision of this title, an order
2 passed under this title, or a regulation adopted to carry out this title and there is a
3 specific determination that the violation is not of a serious nature.

4 [(d)] (E) The Commissioner may assess a civil penalty against an employer OR
5 PUBLIC BODY [who] THAT does not correct a violation for which a citation is issued
6 within the period set under this title for correction.

7 5-812.

8 (A) [Each] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH
9 civil penalty under this title shall be paid into the General Fund of the State.

10 (B) (1) THERE IS A WORKPLACE HAZARD ABATEMENT FUND.

11 (2) THE COMMISSIONER SHALL PAY EACH CIVIL PENALTY COLLECTED
12 FROM A PUBLIC BODY UNDER § 5-809(B)(2), (C)(2), (D), OR (E) OF THIS SUBTITLE TO THE
13 COMPTROLLER WHO SHALL DISTRIBUTE THE FUNDS TO THE WORKPLACE HAZARD
14 ABATEMENT FUND.

15 (3) (I) THE FUND SHALL BE USED TO ASSIST A PUBLIC BODY IN
16 ABATING A WORKPLACE HAZARD.

17 (II) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT
18 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19 (III) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR
20 BE TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN
21 THE FUND TO BE USED FOR THE PURPOSE SPECIFIED IN SUBSECTION (B)(3)(I) OF
22 THIS SECTION.

23 (IV) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE
24 FUND.

25 (4) (I) THE COMMISSIONER SHALL ADMINISTER THE FUND.

26 (II) MONEYS IN THE FUND MAY ONLY BE EXPENDED FOR THE
27 PURPOSE STATED IN SUBSECTION (B)(3)(I) OF THIS SECTION.

28 (5) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
29 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
30 ARTICLE.

31 5.5-106.

32 (a) (1) The proposed budget of the Division of Labor and Industry shall
33 include an appropriation from the [General Fund of the State] PUBLIC SERVICE
34 COMMISSION to cover the cost of administering this title.

35 (2) Unless the Board of Public Works exercises the option under
36 subsection (b) of this section, the Public Service Commission shall [reimburse the

1 General Fund for] PAY the cost of administering this title from money the Public
2 Service Commission receives under § 2-110 of the Public Utility Companies Article.

3 (b) (1) The Board of Public Works may adopt a regulation to assess, fairly
4 and as equally as possible, each railroad company operating in the State the cost of
5 the State's share of activities under this title.

6 (2) The amount to be [reimbursed to the State General Fund] PAID BY
7 THE PUBLIC SERVICE COMMISSION may not exceed \$1 million in any fiscal year.

8 11-402.

9 Subject to the evaluation and reestablishment provisions of the Maryland
10 Program Evaluation Act, provisions of this subtitle creating the Apprenticeship and
11 Training Council and related to the regulation of apprentices and trainees are of no
12 effect after July 1, [2004] 2014.

13 **Article - State Finance and Procurement**

14 [17-203.

15 (a) In this section, "Advisory Council" means the Advisory Council on
16 Prevailing Wage Rates.

17 (b) There is an Advisory Council on Prevailing Wage Rates in the Division of
18 Labor and Industry.

19 (c) The Advisory Council consists of the following 6 members:

20 (1) 2 individuals from management in the building and construction
21 industry;

22 (2) 2 individuals from labor in the building and construction industry;
23 and

24 (3) 2 individuals from the general public.

25 (d) (1) The Governor shall appoint each member with the advice of the
26 Secretary of Labor, Licensing, and Regulation and with the advice and consent of the
27 Senate.

28 (2) The 2 members from management shall be selected from a list
29 submitted by management organizations in the building and construction industry.

30 (3) The 2 members from labor shall be selected from a list submitted by
31 labor organizations in the building and construction industry.

32 (e) Before taking office, each appointee to the Advisory Council shall take the
33 oath required by Article I, § 9 of the Maryland Constitution.

1 (f) (1) From among the Advisory Council members, the Governor shall
2 appoint a chairman.

3 (2) The chairman of the Advisory Council:

4 (i) shall serve for 1 year from the day of appointment; and

5 (ii) is not eligible for reappointment as chairman for the following
6 year.

7 (g) (1) The term of a member is 3 years.

8 (2) The terms of members are staggered as required by the terms
9 provided for members of the Advisory Council on October 1, 1988.

10 (3) At the end of a term, a member continues to serve until a successor is
11 appointed and qualifies.

12 (4) If a vacancy occurs, the Governor shall appoint a new member with
13 the advice of the Secretary of Labor, Licensing, and Regulation.

14 (5) A member who is appointed after a term has begun serves only for
15 the rest of the term and until a successor is appointed and qualifies.

16 (h) The Governor may remove a member for incompetence or misconduct.

17 (i) (1) The Advisory Council shall advise and submit recommendations to
18 the Commissioner on the Commissioner's functions under this subtitle.

19 (2) The Commissioner may ask other units of the State government or
20 units of local governments to provide statistical data, reports, and other information
21 to help the Advisory Council to carry out its duties.

22 (j) The Advisory Council shall meet at least twice a year and on other days the
23 Commissioner requests, at the times and places that it determines.

24 (k) Each member of the Advisory Council is entitled to:

25 (1) compensation in accordance with the State budget; and

26 (2) reimbursement for expenses under the Standard State Travel
27 Regulations, as provided in the State budget.

28 (l) Subject to the evaluation and reestablishment provisions of the Maryland
29 Program Evaluation Act, this section shall terminate and be of no effect after July 1,
30 2004.]

31 17-204.

32 (a) (1) The Commissioner shall adopt regulations reasonably required to
33 carry out this subtitle.

1 [(55) Prevailing Wage Rates, Advisory Council on (§ 17-203 of the State
2 Finance and Procurement Article: July 1, 2003);]

3 SECTION 4. AND BE IT FURTHER ENACTED, That the Division of Labor and
4 Industry shall report to the Senate Finance Committee and the House Economic
5 Matters Committee on or before October 1, 2003, in accordance with § 2-1246 of the
6 State Government Article, on the implementation of the recommendations of the
7 Department of Legislative Services contained in the sunset evaluation report dated
8 October 2002.

9 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2003.